

A Regular meeting was held on Tuesday, June 24, 2014 beginning at 7:00pm in the Main Meeting room of the Town Hall. The following members were present.

Mark Gallivan, Chairman  
Christopher Timson, Vice Chairman  
Nancy Mackenie, Clerk  
Clifton Snuffer  
James Stanton

Also Present  
Michael Boynton, T. A  
James Johnson, Asst. TA  
Cindy Berube, Executive Assistant

Mr. Gallivan called the meeting to order 7:10 followed by the pledge of Allegiance.

#### ANNOUNCEMENTS AND PROCLAMATIONS

None

#### SPONSORED AGENDA ITEMS

#### 6-28, 6-29, 6-30 HEARING, LIQUOR VIOLATIONS

MOTION moved by Mrs. Mackenzie to open the public hearing for 99 West LLC, d/b/a 99 Restaurant and H.Kim Inc. d/b/a East Walpole Package store for an alleged violation of the terms of their liquor license, seconded by seconded by Mr. Snuffer, VOTED 4-0-0

\*\*\*Attorney Blake will read the notice and swear in witnesses

Attorney Blake asked the Detective Songin to speak. Attorney Blake swore in the Detective.

Detective Songin, I run underage compliance checks with the establishments in Walpole and we came up with two. Attorney Blake asked if the Detective would give the board an overview how the program works. Detective Songin I have two operatives not from Walpole, college students, criminal justice majors. I explain the procedure, only allowed to carry their own money I give them money and we copy the serial numbers, have their License showing under 21, if they are served at a bar they are to leave and tell me. At a package store, they take the alcohol and I bring it back into them.

Attorney Blake asked if they send a letter to each establishment? Detective Songin stated, yes we send a letter and post in the newspaper. The Deputy Chief did it for me. Attorney Blake stated with respect to the 99 Restaurant did you send an underage operative. Were they able to purchase alcohol? Detective Songin stated yes, they went in with a twenty dollar bill. They hand over their ID vertical license, says Date of Birth and says when they will turn 21. If they ask for the license they hand the license, they were served and were asked for license.

Attorney Blake has nothing further. In the record. The letter and the Police report were mailed to them mark as exhibit.

MOTION moved by Mrs. Mackenzie to waive the reading of the notice, seconded by Mr. Snuffer, VOTED 5-0-0

Mr. Snuffer is unfamiliar with the vertical license, showed a picture. It was his individual license. Is he here this evening. Detective Songin explained at this stage we do not want them to be here. I have a copy of his license. Takes a picture of them and their license.

Mr. Timson asked if he has a copy of the document. The manager signed the document. Detective Songin handed him the document. This letter indicates the manager was made aware there was a violation.

Attorney for 99 Restaurant, Gregory DeMarkis introduced the manager Cindy Fuller. We are not here to contest anything you heard in the police report. We want to emphasize they have been a good cooperate in town. Had an extensive safety program in place, all 68 employees and 55 come in contact with alcohol. All trained and certified. Any server that serves to a minor is subject to termination. They must sign a manual handbook. This restaurant, has one impressive set of procedures in place and had them in place. The Manager holds a Pre meal meeting every day. Talks to servers everyday. Goes over the acceptable forms of id and who do we card. They card anyone that does not look over 35 yrs old. Down everyday and every shift. The officer came in around 6:30, the young woman was told to punch out and go home terminated the next day. I do not know what she was looking at. She did get the first part right. After the fact the next day, Cindy met with staff and they were shocked and disappointed. First time for this place. They saw the policy was not just words but reality. She lost her job. Excellent cooperate company. No prior incident. Mr. Seraminas has been an employee for 19 years. Very competent people running this. We are sorry this happened. These procedures were in place before had. They do everything to avoid this situation. We do not know what happened she made the effort, whether she forgot the difference between horizontal and vertical. Should not happen again. Explain who we are. This is not a result of poor procedures.

Mrs. Mackenzie thanked them for coming in appreciates your polices and practice and we do in the town. We take serving minors seriously. We have a past practice that is very important. Accidents do happen, it is a serious offense.

Mr. Snuffer, I indicated I was not aware of the two types of licenses. I think the person may look over 21 but the license is a dead give away. You are acquiescing to the charges. Attorney DeMarkis we are not disputing the license. Mr. Snuffer questioned what corrective action have you implemented have you created. The Attorney explained this is a company that has procedure in place, culture is rush rush, rush. From that day on, that DNA will no longer be applied to alcohol. Digest what the licenses say. They reemphasize the issue. It is hard to say they are doing anything different. They have slowed things down. Either she felt rushed or distracted.

Mr. Timson noted the licensee was given the opportunity to accept a two day suspension with the days of their choice. The Attorney explained their general counsel is in Tennessee. He wanted me to present our side of the story. As to who they are. They take this seriously. I believe there was conversation between Mr. Blake and Attorney Vozzeza. Mr. Timson, I understand hearing your side, in terms of the punishment, were you aware of the two day suspension with the option of their choice. If we waive the right of appeal we can choose the two days. The Attorney explained, you cannot ask someone to give up their rights. That is distinction, because one licensee did not waive their rights. It would be punitive. I understand your policy. To not allow us to pick our dates. Mr. Timson are you willing to accept that or not. I understand that, if we do get the two day suspension we would like to pick the days. Mr. Timson, are you willing to accept the offer.

M. Boynton-understanding there is a two day suspension coming down. They will implement a 2 day suspension, at the planning of the licensee, will the 99 appeal the decision. If you were given that same penalty. Attorney, I truly do not know. I do not control that decision, that is a corporate decision.

Attorney Blake, the ABCC for first offense a warning to 3 days is what they will uphold. When someone has come before you and take full responsibility and do not reserve rights to appeal. We have to negotiate with the side, we have agreed with the days. I want to address when counsel said it is illegal it is not allowed them to pick a date. The purpose is educational, but taking full responsibility for that, the punishment you agree to. We are not going to appeal, shows they are taking full responsibility with a reservation of rights. They are reserving the rights to appeal. I suggest that it is not illegal to do what we have done in the past.

Attorney DeMarkis, if we had a different view point. Somehow because we exercise our rights the ABCC would strongly not agree with that opinion. Mrs. Mackenzie, the 99 counsel has mentioned they would not give their right to appeal in accepting.

MOTION moved by Mrs. Mackenzie to close the public hearing on the 99 Restaurant, seconded by Mr. Timson, VOTED 5-0-0

Mr. Timson look at our past history of what we have done to other businesses and the Board has given a 2 day suspension in the past. With full responsibility taken, let the

licensee take the dates. Issue a two day suspension and we pick the days unless they come back with full responsibility and allow them to pick the days. Give them some time to take full responsibility and come back to us. I don't want to penalize the corporation for that. We have the method and should stick with that. But tailor it to this cooperation.

MOTION moved by Mrs. Mackenzie to close the public hearing, seconded by Mr. Timson VOTED 5-0-0

Motion on the findings.

MOTION moved by Mrs. Mackenzie that violation of serving to a minor as presented did happen, seconded by Mr. Timson, VOTED 5-0-0

Mr. Timson, no doubt the violation occurred. I repeat what I say about the punishment. Fairest way to apply to this applicant. Mr. Snuffer, if I interpret you correctly, subject to them coming back in a period of time, saying yes we will take full responsibly.

Mrs. Mackenzie noted we had a different cooperation in 2011. It is a strong message. They could have spoken but agreed. We would not have said no. They could have made their agreement. We never took that away from anyone. We do this for a reason, you are somewhat rewarded for picking the dates. I do not hear full acceptance. The person that made the mistake, they were fired, and the corporation is not accepting.

Mr. Snuffer, I think they have decent arguments, the side I come on, not seeing anyone's rights violated or not put in due process. We agree the incident took place, they know about the two day practice of the Board. I want to vote for the two days, and if that includes appeal so be it.

Mr. Stanton, I would echo what Chris says, I would opt for the two day suspension given them a reasonable time to get back to us whether they will appeal, if they agree not to appeal they get the choice of the two days. Lets us know.

Attorney Blake suggests perhaps, going that route is not the best idea. If they are willing to accept so be it but if not, you can agree to negotiate what days the suspension are. Not allow them to pick the days, but we can discuss which two days, you do not have to. You accept your punishment and be done with it. The other way could be punitive.

MOTION moved by Mrs. Mackenzie as a result of the previously detailed violations the following penalty be issued to 99 West, LLC d/b/a 99 Restaurant & Pub located at 55 Boston Providence HWY, E. Walpole, MA, a two day suspension of the days: November 25 and November 26, 2014 (changed dates). , seconded by Mr. Timson

Discussion:

Mr. Timson was thinking sometime sooner than that. Mr. Gallivan is comfortable with November. Mr. Snuffer would support a Tuesday or Wednesday. Mr. Timson asked if

they could support August 26 and August 27? Any two nights they are suspended will effect their business.

After discussion it was determined to change the days of Suspension to **August 19 and August 20, 2014. VOTED 5-0-0**

E. Walpole Package Store hearing

MOTION moved by Mrs. Mackenzie to waive the reading of the notice, seconded by Mr. Snuffer, VOTED 5-0-0

Attorney Blake stated we can dispense with the broad overview. You know why you are here. Detective Songin, alcohol compliance check. We pulled into the parking lot next store and sent operative in and he exited with the alcohol and receipt. His license was requested and shown. They sold him bud light. He brought them to me. I took it and went back inside. The owners were out of town and spoke to the Clerk. Did the clerk acknowledge he was aware of the sting. Detective Songin, yes he acknowledged that. Attorney Blake, did he acknowledge that he sold to an underage person. Detective Songin, yes he did.

Mr. Snuffer questioned if he received a signed agreement by the Clerk. Detective Songin, yes.

Hyam Kim, owner of the Store, I was out of the country, S. Korea . The clerk was confused when he saw the ID thought the customer was 21. He called me, as we have worked for 20 years together. He has not sold cigarette to minor. He checks ID all the time. Since I have the chance to be here. He checked ID, he thought he was over 21. I know he had no intention to break regulation.

Attorney Blake swore Mr. Kim and Mr. Senn Joe the Clerk. Mr. Stanton asked how long have you owned it. Since 2007. You mentioned you have worked for him for 20 years. Worked at MIMI variety . Had a liquor store in N. Attleboro and we worked together there. All together about twenty years. I need to tell you one thing. The vertical ID does not mean that a person is under 21. When the person got that license they were under 21. Some are over 21 with a vertical ID. Mr. Stanton asked if he is a resident of Walpole. Mr. Kim Yes I live in Walpole. I donate to the food pantry every year.

Mr. Snuffer referred to the exhibit of the vertical license, I have in front of me, It says on it under 21. My question is with Mr. Joe, whether he did quick math on the year. The year is 1993. It is very Clear. Under 21 license. Mr. Kim when he checks id of young customer he looks at the clock. The clock says April 17, 1993. Sometimes they get confused.

Mr. Joe, some vertical license can be over 21. On that day I checked his ID I looked at the clock. I checked my clock I got confused. That is reason I sold to the minor. When the officer came in and told me I sold to a minor. I could not sleep for days and

kept thinking about it. I told him what happened. The owner has purchased a state of the art machine, to try avoid this again. Regardless I usually use calculator. I can not rely on my brains anymore. I am asking if you can forgive, or give lenient sentence. I did not do it intentionally. I like to live as honest as I can. I made a mistake that day. I ask you for lenient sentence.

Mr. Timson, Mr. Kim, what I gather you are not disputing this occurred you accept that did happen. Where you offered the ability to enter into an agreement for two days suspension and choosing the days and not appealing it. Mr. Kim yes.

MOTION moved by Mrs. Mackenzie to close the hearing, seconded by Mr. Snuffer,  
VOTED 5-0-0

MOTION moved by Mrs. Mackenzie that violation of serving to a minor as presented did happen, seconded by Mr. Timson, VOTED 5-0-0

MOTION moved by Mrs. Mackenzie as a result of the previously detailed violations the following penalty be issued to East Walpole Package Store located at 79 Boston ProvidenceHWY, E. Walpole, MA, a two day suspension of on August 19 and August 20, 2014, seconded by Mr. Snuffer,

#### Discussion

Mr. Timson, your appeal for leniency has not fallen on deaf ears. Everyone that has come in has made an error, but as LLA, we follow our policy. That is when we run into trouble ourselves. Be equal in how we give out that punishment. I do not think people are trying to sell to minors, but we have to give out a punishment so we do not have those type of mistakes again.

Mrs. Mackenzie commented on buying the reader. Sorry this has happened.

Mr. Snuffer , Mr. Timson suggested to you that you have something of value a great employee, dedicated with business. The Board is correct in administering the policy. While we deal with the compassion, this is one time I agree with the two days.

Mr. Stanton gave credit to you and employee for taking responsibility. We did hear your plea. We need to be consistent. I commend you on the new system.

VOTED 5-0-0

#### OPEN FORUM-No one present

#### Auditors

Toney Roselli and Mr. Clark reviewed the economic trends, you have over seven million in reserve. Slightly up from 2012 and bigger from 2011. This includes free cash. If

the ratio comes out to about 10% the bond ratings like to see that. The towns listen to our advise. The town is trending at the high end around 9%. Mr. Boynton clearly there has been and effort to get to this point. What is missing is the 3 million dollar override in the middle of 2012. We also identified the needs of the municipal facilities plan we would be looking to bring down that cost.

If you go to the next slide you can see that. If they see you using free cash for salaries that is a no no. If they see it used for municipal buildings. They love overrides. In 2013 the town did use two million free cash you made up 2.7 million in positive operations. Meals excise were higher and building permits were vibrant.

Favorable expenditure variance. Those two items contributed to the 2.7 million. You used the money in a good way but then you made it back.

#### Accomplishments

I believe you had a plan to increase OPEB by \$75,000 every year. Mr. Snuffer noted it is a good plan, it shows the ability to pay down the OPEB. Sometimes it sits there as a revenue source, it ended up helping School Budget. On T. Mtg floor there was a substitute motion that took and replenished to keep the OPEB. We now have to have conversations about what we do to the original set of rules they we indicated. The double AA2 rating. The difference between AA and AAA is not a huge jump. Credit evaluator top of the line investment. It is not a money saver. It is a stamp of approval. We are in the process of facilities issue and important to have that dialogue.

Mr. Timson, following up on OPEB issue, one thing some planned to funding the schools then fund OPEB in the Fall. Would that have any affect on how creditors look at us. The Auditor noted as long as you have a plan. It does not matter when it is funded.

Mr. Boynton is the way it went down. The problem suggesting that OPEB wait to Fall, it suggests that it is not as important as other budgetary issues. Doing in STM where you are going for OPEB. Once you make a deposit it is done. You are setting up budgetary until fall. This year it was \$300,000 for OPEB. We estimated growth at \$500,000. If you only get \$200,000 increase you short change OPEB, long term financial prospective it is a large difference in what we were funding. The BOS, S. Com and Fin Com need to meet prior to the Fall Town meeting. There will be that gap. For every ten people out on the street, that you cant take care of it. MG we will work on it.

6-33 Public Hearing, Applebee's.

MOTION moved by Mrs. Mackenzie to open the public hearing for Applebee's bar and grill, seconded by Mr. Snuffer, VOTED 5-0-0

MOTION moved by Mrs. Mackenzie to continue the hearing to the conclusion of this Agenda item, seconded by Mr. Snuffer, VOTED 5-0-0

Audit Contd.

Chad Clark- We suggested at T. Mtg. to exempt the first \$5,000 on personal property taxes they tend to be the ones people do not pay. The town agreed to opt to 5%. The law allows up to 10%. It is a good idea. They see the benefit from the 5% and would like to pursue the 10%. Usually talking about pennies.

Fraud Risk assessment in cash handling, suggesting an internal audit process. Town Accountants can do this at will. By going to the different depts. it shows that someone is watching. Risk Assessment is a big area. Would like to encourage town to empower the financial personnel to go out and do these. Data breach. At Target they stole information out of the system. Encouraging outside resources and test your system, let them see how far they can get into your system.

Findings-Munis you are still on yours, not suggesting you move away from it. The resources to keep updated have not always been allocated. I believe you are two versions behind. You are going to get to a point where your version will not work with Munis. Allocate personnel to get the system updated.

Social Security numbers were included on some payroll reports. A couple of reports being run that disclosed personal information. Talked about the change in the financial team. We hope when we do the FY14 audit the issues will be corrected. Student activities. Some of it was being pulled into town funds.

6-33 Public Hearing, Applebee's

Mr. Gallivan continued the hearing

Attorney Demarkis ownership is remaining the same. Golden Saks is selling their interest to Bank of America. Asking to get a new pledge. The ABCC has already approved this.

MOTION moved by Mrs. Mackenzie to close the hearing, seconded by Mr. Snuffer, VOTED 5-0-0

MOTION moved by Mrs. Mackenzie to approve the change of beneficial interest, Pledge of license and Inventory for Applebee's new England LLC d/b/a Applebee's Neighborhood Grill & bar, seconded by Mr. Timson, VOTED 5-0-0

6-31 Street Opening Permit, 765 Washington St

Attorney Macchi stated I came before you to seek a waiver. Submitted a letter dated June 17, I also gave you a summary. That identifies the issue. Ms. Walker had made comments. We have no problems with those comments and could meet them. When they were going to move forward with this her husband died at age 58. You also asked if it could accommodate a septic system. There is a provision; if there is sewer in the street

you have to connect. (He reviewed all the list of items from Attorney Macchi)  
Walpole does not have site distance regulations for driveways. This lot was created prior to the current zoning and 80% lots were allowed. She is willing to do what you ask for.

MOTION moved by Mrs. Mackenzie to approve the waiver of a street opening moratorium for 765 Washington St subject to the conditions set forth in a memo from Margaret Walker, town engineer dated April 8, 2014 being adhered to, seconded by Mr. Snuffer, VOTED 4-0-1 (Mr. Stanton abstained)

Mrs. Mackenzie noted this is so early in the road, if we are going to open once I do not want to open it twice. If gas service is being proposed. Acknowledge no further application for Gas.

#### 6-34 Parking Lot License, 2250 Providence Hwy

We are hoping to continue with what the previous owner did with the parking lot. It was owned by Keating LLC. She is opening a Specialty Veterinarians office.

MOTION moved by Mr. Timson to approve the parking lot license to VNAP Inc. located at 2250 Providence HWY for no more than 66 vehicles as shown on the site plan dated March 31, 1998 with the latest revision of May 7, 1998 by Glossa Engineering . The applicant shall abide by Planning Board decision for Case 98-8, and ZBA decisions for cases 13/98, and 29/90 and the Rules and Regulations for parking lots being used during stadium events., seconded by Mrs. Mackenzie, VOTED 5-0-0

#### 6-35 Bond Release, Niden Woods

MOTION moved by Mrs. Mackenzie to release the bond being held for offsite work associated with the Niden\_Woods Subdivision, seconded by Mr. Gallivan, VOTED 4-0-1 (Mr. Snuffer abstained)

#### 6-39 Wading Pool Bid

Mr. Johnson explained the wading pool situation. We are pleased with this bid. We have toned back the project. This is the base bid only no alternate. It will allow future expansion.

MOTION moved by Mrs. Mackenzie to award the contract 2014-34 to Weston and Sampson seconded by Mr. Timson, VOTED 5-0-0  
There will be one spray pad in the middle. It will be made from concrete.

Mrs. Mackenzie left the meeting at 9:25

6-36 Use of Adams Farm

MOTION moved by Mr. Timson to approve the request from John Papirio for use of A. Farm with conditions set forth from the A. Farm Committee for June 2, 2014, seconded by Mr. Snuffer, VOTED 5-0-0

6-37 & 6-38 Gift Acceptances

MOTION moved by Mr. Timson to accept the gift from DXL group and Sheila Cicco, with much gratitude, seconded by Mr. Snuffer VOTED 4-0-0

T. A update

Working on a transition plan as he is leaving to be the Town Administrator in Medway, MA.

Mr. Timson, I have worked with you for 8 years and you have done a great job and I am sad to see you go and appreciate your making your move seamless.

**NEW BUSINESS**

Mr. Snuffer would like the Board of Assessors to take a look at the 5% to 10% as suggested in the audit.

Mr. Gallivan noted the one item new to me is a data breach audit. Mr. Timson suggested it is a healthy exercise to have the accountants to do a review of two departments each year.

MOTION moved by Mr. Snuffer to adjourn at 9:35, seconded by Mr. Timson, VOTED 4-0-0